

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS

WORCESTER, ss.

In re:

WESTBOROUGH SPE LLC,

Debtor.

Chapter 7

Case No. 23-40709-CJP

CREDITOR'S MOTION TO COMPEL TRUSTEE TO FILE A REPORT ON UNCLAIMED FUNDS RECEIVED PURSUANT TO RULE 2015(a)

Now comes **Lolonyon Akouete**, a creditor in the above-referenced bankruptcy case, and respectfully moves this Honorable Court to compel the Chapter 7 Trustee to file a report specifically addressing the receipt and status of the **\$1,293,646.83** in unclaimed funds received from the California State Controller. This motion is made pursuant to **Rule 2015(a)** of the Federal Rules of Bankruptcy Procedure and **11 U.S.C. § 704(a)(8)**. In support of this motion, the Creditor states as follows:

1. **Jurisdiction:** This Court has jurisdiction over this matter pursuant to **28 U.S.C. §§ 157 and 1334**.

2. **Background:**

- On **August 31, 2023**, an involuntary petition was filed against **Westborough SPE LLC** under the provisions of Chapter 7 of the Bankruptcy Code.
- The Trustee, **Jonathan R. Goldsmith**, was appointed to administer the estate of the Debtor.
- Creditor **Lolonyon Akouete**, with an address at **800 Red Milles Rd, Wallkill, NY 12589**, has a vested interest in ensuring proper administration of the estate's assets, with creditor claims totaling **\$4,525,000.00**.
- On **February 2, 2024**, the Trustee filed **Dkt#78**, a motion to compel the California State Controller to surrender **\$1,293,646.83** in unclaimed funds, which were identified as property of the bankruptcy estate.
- On **February 12, 2024**, the Trustee withdrew **Dkt#78** following receipt of the funds, as confirmed in **Dkt#93**.
- In an email dated **August 13, 2024**, the Trustee confirmed that the **\$1.2 million** had been remitted to him from the State of California and referred to these funds as being held in a "legal fee escrow," indicating potential use for covering legal fees rather than distribution to creditors.

3. **Legal Basis:**

- **Rule 2015(a)(2)** requires the Trustee to keep a record of receipts and the disposition of money and property received.
- **Rule 2015(a)(3)** further mandates that the Trustee file reports on the administration of the estate, including detailed information about the disposition of funds.

4. **Grounds for Motion:**

Despite the Trustee's acknowledgment of the receipt of **\$1,293,646.83** from the California State Controller, the Trustee has not yet filed a report providing a detailed account of the receipt and disposition of these funds as required by **Rule 2015(a)**. Furthermore, there is

09/18/2024 REQUEST FOR EXPEDITED DETERMINATION IS DENIED.
THE COURT WILL HOLD THE MOTION FOR OBJECTIONS IN THE
ORDINARY COURSE, WHICH SHALL BE FILED ON OR BEFORE
OCTOBER 2, 2024.